

FREQUENTLY ASKED QUESTIONS ON FOOD PROCESSING

Question 1: If I have multiple manufacturing units in a State/UT, do I have to register all my companies separately or as a group?

Answer: You shall be granted a single registration in the State. However, you have the option to take separate registration for each of your business verticals (as defined in section 2(18) of the WBGST Act, 2017) in the State.

Question 2: A registered person is sending semi-cooked food from his manufacturing unit at Gurgaon to his branch in Delhi. Is he required to pay any tax?

Answer: In accordance with the provisions of section 25(4) of the WBGST Act, 2017, branches in different States are considered as distinct persons. Further, as per Schedule I, this constitutes supply made in the course or furtherance of business between distinct persons even if made without consideration. As it is an inter-State supply, the registered person is required to pay IGST.

Question 3: A registered person is supplying manufactured food products to another person. Transportation charges are required to be paid by the supplier but are actually paid by the recipient. Whether this transportation charges would be added in the supply value?

Answer: If the supplier is liable to pay any amount in relation to a supply, such amount would be a part of transaction value, even if the same has been paid by the recipient. In this case, the transportation charges shall be added to the value of supply.

Question 4: A registered person is a manufacturer of taxable food items. His factory is in rental premises. Whether this person is eligible to claim ITC on tax charged on the rental amount?

Answer: Yes, the person is eligible to claim ITC of tax charged on the rental amount.

Question 5: Whether the supplier can reduce the tax elements against goods returned to him?

Answer: Yes, the person is eligible to reduce the tax liability by issuing credit notes to his recipient for such returned goods subject to the condition that the recipient reduces the claim of ITC to that extent if ITC was availed by him. (Credit Note must bear reference of original invoice No.)

Question 6: What will be the rate of tax on cold drinks (non- alcoholic beverages) and ice cream when served in non-AC Restaurant along with food ?

Answer: The rate of tax shall be 12 %. In the event of the supply being made in an AC restaurant, the rate of tax shall be 18%. If the restaurant was availing composition scheme (can do so only if ice cream is not manufactured by the restaurant), the rate of tax shall be 5% of the aggregate turnover.

Question 7: The supplier has sold machinery for hotel industry on 28-06-2017. The purchaser has received the invoice and machinery on 05-07-2017. Whether ITC of Duty / VAT paid (under the existing law) on machinery can be allowed to be claimed?

Answer: No. Such credit is not admissible in case of machinery, being capital goods. As per Section 140 (5) of the WBGST Act, 2017, credit of eligible duties and taxes in respect of only inputs / input services in transit during transition from Pre-GST to Post-GST is allowable. This is subject to the condition that the tax on such supply is paid under the existing law and the recipient records this receipt in his books of accounts within thirty days of the appointed day.

Question 8: Is Atta / Maida/ Besan supplied in bulk liable to tax under GST?

Answer: Outward supply of these goods if effected without registered brand name is exempt under GST. However , if the outward supply is made under a registered brand name and put up in unit container then it would be liable to tax @ 5%.

Question 9: I am a whole seller of rice dealing in both branded and un-branded rice. I purchase them locally (i.e. from within the State) and also from outside the State (inter-State purchase). In the last financial year my turnover was Rs 5.5 Crore. Today, I am not registered under VAT. My questions are:

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Note: Reference to WBGST Act, 2017 includes reference to CGST Act, 2017 also.

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(i) Will I have to get myself registered now?

Answer: Rice put in a unit container and bearing a registered brand name is taxable @ 5%. In accordance with the provisions of section 22 of the WBGST Act, 2017 (applicable in your case), a person becomes liable to be registered in the State/UT from where he makes taxable supply of goods or services or both if his aggregate turnover (which includes value of exempt supplies as well) in a financial year exceeds Rs.20 Lakh. Hence, liability to get registration accrues in your case from the date the aggregate turnover in the current financial year exceeds Rs.20 lakh.

(ii) The suppliers of basmati rice (branded) are saying that they will charge 5% IGST and I must get myself registered to avail the ITC. What do I do?

Answer: As rice put up in a unit container and bearing a registered brand name is taxable @ 5%, the suppliers of branded basmati rice located in other States would be charging IGST @ 5%, whose credit can be availed only when the recipient is registered under the WBGST Act, 2017. Therefore, if you want to avail of input tax credit, you must get yourself registered. That said, for making inter-State purchases one is not mandatorily required to be registered.

(iii) 90% of my turnover will of un-branded rice, while 10% only will of branded one. Can I sell both of them in one invoice?

Answer: As per Invoice Rules, a registered person supplying taxable goods is required to issue a tax invoice and in case of exempted goods, he is required to issue a bill of supply. As all the contents of bill of supply are included in the tax invoice, a separate bill of supply need not be issued in case of the exempt component. Thus, both branded and unbranded rice can be included in one invoice.

(iv) As an un-registered taxable person now, am I required to furnish information like HSN, place of supply, taxable value, etc. in my invoice? (I know that it is mandatory for a tax invoice only).

Answer: HSN codes, taxable value, place of supply are required to be recorded in a tax invoice to be issued by a registered person under rule 46 of the WBGST Rules, 2017. An unregistered person cannot issue a tax invoice.

(v) Assuming, I apply for voluntary registration and obtain GST registration:

(a)	Will I get ITC on the IGST paid on branded rice lying in stock on the date prior to the date of my liability?	Yes, a person who takes voluntary registration is entitled to take credit of input tax in respect of inputs held in stock on the day immediately preceding the date of grant of registration. In this connection, section 18(1)(b) read with section 25(3) of the WBGST Act, 2017 refers.
(b)	Will I get ITC on CGST & SGST paid on packing materials, office stationery, computer and accounting software purchased and lying with me as stock as business assets on the date preceding the date from which I have become liable to pay tax under GST?	<ul style="list-style-type: none">• A person who takes voluntary registration is entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration.• Two important points being that the goods in stock must qualify as "input" and that the tax paid at the time of its purchase must qualify as "input tax" under GST.• Any goods which have been capitalised in the books of account will not be treated as an input. Hence credit on computers will not be available if the value of the same has been capitalised in the books of accounts. Further, in terms of section 18(1)(b) of the WBGST Act, 2017, taxes paid on accounting software which were acquired before registration will not be available as credit since credit is not available in respect of services in such cases. Other than that, credit shall be available on CGST/SGST paid on packing materials, etc. subject to conditions and restrictions spelt out in sections 16 to 18 of WBGST Act, 2017

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(c)	When shall I start charging tax i.e. from the date I apply for registration or only after I have got my registration number?	<ul style="list-style-type: none"> • Only from date the registration has been granted. • The tax invoice also can be issued from that date only. • Prior to it neither you can issue tax invoice nor charge any tax on the invoice.
(d)	Will I have to issue tax invoice for all sales that I make i.e. branded or un-branded after getting registered?	Rice put up in a unit container and bearing a registered brand name is taxable @ 5% and tax invoice has to be issued for supply of taxable goods [Section 31(1) of the WBGST Act, 2017 read with Rule 46 of the WBGST Rules, 2017]. For sale of goods exempt from tax i.e. unbranded rice, a bill of supply has to be issued [Section31(3)(c) of the WBGST Act, 2017 read with Rule 49 of the WBGST Rules, 2017].
(e)	Is it compulsory to show the tax amount separately on the face of the tax invoice?	Yes, it is mandatory under section 33 of the WBGST Act, 2017.
(f)	I have three shops in the city, can I issue tax invoices using prefix for these different locations?	Yes. It may, however, be ensured that the invoice conforms to the requirements under Rule 46(b) of the WBGST Rules, 2017.
(g)	Is place of supply required to be mentioned in the tax invoice for local sales also?	No. Under Rule 46(n) of the WBGST Rules, 2017, the place of supply along with the name of the State is required to be mentioned in case of an inter-State supply only.

Question 10: Caterpillar is a restaurant cum bar in Kolkata. It has successfully migrated to GST. While the first floor area of the restaurant is air conditioned and supplies food as well as liquor, the ground floor serves only food and is non-air-conditioned. Caterpillar wants to know,:

(i) Whether they will charge GST @ 12% on supplies made from ground floor or 18%?

Answer: Tax will have to be charged @ 18% irrespective of from where the supply is made, first floor or second floor. If any part of the establishment has a facility of air conditioning then the rate will be 18% for all supplies from the restaurant.

(ii) Whether they can raise one tax invoice for both food and liquor or not?

Answer: Tax invoice has to be issued for supply of food, while for liquor a bill of supply has to be issued or any invoice as may be required under the provisions of local VAT or sales tax law of the concerned State.

(iii) What will the rate of tax to be charged for supplies of food made from their takeaway counter?

Answer: Tax has to be charged @18% on supplies of food made from their takeaway counter.

(iv) Can they claim ITC of CGST and SGST paid on crockery items to be used in the restaurant?

Answer: Yes, they can claim ITC of CGST and SGST paid on crockery items to be used in the restaurant. It may be stated that they are entitled to the credit of even IGST paid where such goods are procured from outside the State against a tax invoice.

(v) Whether they will be eligible for ITC on crockery items purchased locally in the month of March, 2017 paying VAT of Rs. 72,500/-. The goods have been shown as business assets.

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Answer: If the State VAT law allowed ITC on such goods, the credit was available on the date of purchase. Section 140(1) of the WBGST Act, 2017 allows them to carry forward the credit on account of VAT.

(vi) Whether they can opt for composition (last year their turnover was more than rupees one Crore)?

Answer: No. they are not eligible for composition levy as they are also supplying liquor.

(vii) Can they issue separate series of tax invoices for their supplies from first floor, ground floor and takeaway counter?

Answer: In accordance with the provisions of Rule 46(b) of the WBGST Rules, 2017 the tax invoice need to be serially numbered not exceeding sixteen characters, in one or multiple series. As such, they can issue different series of tax invoices as stated but it must conform to the requirements as given in the said rule.

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